

NOTICE OF PROPOSED RULEMAKING ACTION

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

Sections 7030 to 7055 Title 4, Division 10 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California Health Facilities Financing Authority (the "Authority"), organized and operating pursuant to Sections 1179.20 through 1179.10 of the Health and Safety Code (the "Act"), proposes to adopt the proposed regulations described below relating to the Children's Hospital Program.

Proposed Regulatory Action

The Authority proposes to adopt Section 7030 through Section 7055 of Chapter 2 of Division 10 of Title 4 of the California Code of Regulations (the "Regulations"). The Regulations implement the Authority's responsibilities related to the Children's Hospital Program established pursuant to Part 6 (commencing with Section 1179.10) of Division 1 of the Health and Safety Code.

Authority and Reference

Authority: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code.

Reference: Division 1, Sections 1179.10 et. seq. of the Health and Safety Code. These regulations implement, interpret and make specific Sections 1179.10 et. seq. of the Health and Safety Code as approved by voters on November 2, 2004.

Informative Digest/Policy Statement Overview

Existing law authorizes the Authority to award grants to an eligible participating general acute care hospital for purposes of financing capital outlay projects and requires the Authority to develop evaluation criteria and a process for awarding grants. Existing law requires the Authority to develop a written application for the awarding of grants within 90 days of the adoption of existing law. It also requires grants to be awarded within 60 days from receipt of an application for funds. Existing law requires the Authority to take into account several specified factors when selecting grantees and determining grant amounts.

These regulations would implement the above: described statutory requirements within the required timeframes. The purpose of these provisions is to improve the health and welfare of California's critically ill children, by providing a stable and ready source of funds for capital improvement projects for children's hospitals.

1. Health and Safety Code Section 1179.11 defines certain terms and words, but does not define other terms and words, which are necessary to carry out and accomplish the purposes, objectives and provisions of the Act.

California Code of Regulations (CCR) 7030 clarifies the applicability of certain terms and words which shall be interpreted and applied in a uniform manner when used in any application related to the implementation and administration of the Act.

2. Health and Safety Code Section 1179.11 defines eligible children's hospitals and Health and Safety Code Section 1179.22 authorizes the Authority to develop selection criteria and a process for awarding grants under the Act, including at least certain factors when selecting grantees and determining grant amounts.

CCR 7031 makes specific the eligibility criteria for eligible children's hospitals. The provisions authorize the Authority to require applicants to provide a current, general acute care license, audited financial statements that do not contain any going concern qualifications, a completed application form, ownership documentations of the property if the applicant is proposing to use funds for a project other than equipment acquisition, and reasonable assurance that any projects involving architect, design and/or engineering fees, or acquisition of real property is a component of a larger project that will ultimately benefit the health and welfare of California's sick and/or injured children.

3. Health and Safety Code Sections 1179.23 (a) and (b) and 1179.24(c), (d), and (e) establishes the maximum individual grant award and specifies that no grant can exceed the total cost of the project.

CCR 7032 implements and makes specific these provisions by authorizing the Authority to grant maximum awards as defined.

4. Health and Safety Code Section 1179.24 (c) and (d) specifies that funds available for grants under Health and Safety Code Section 1179.23 (a) and (b) not exhausted by June 30, 2014 shall become available for an application from any eligible hospital.

CCR 7033 clarifies that in the event of available excess funds available for grants, priority will be given to those eligible facilities that have not previously received the maximum grant award to ensure broad distribution of grant awards.

5. Health and Safety Code Section 1179.24 provides that the Authority shall develop a written application for awarding grants under the Act, including at least certain factors as specified when selecting grantees. This application shall be incorporated by reference in these regulations. Health and Safety Code Section 1179.30 specifies \$750 million will be issued as a general obligation bond to fund this Program.

The following provisions implement, interpret or make specific these requirements.

- a. CCR 7034 establishes that all eligible children's hospitals interested in applying for a grant must complete an application.
- b. CCR 7035 specifies the time and manner of submitting an application to the Authority.
- c. CCR 7036 details the information required for submission in an application for a grant including financial information, organizational information, legal information, and an agreement and certification.
- d. CCR 7037 details the manner in which applications will be evaluated by staff.
- e. CCR 7038 details the evaluation criteria that will be reviewed by the Authority including how well the project contributes to the population served, how well the children's hospital contributes to the population served, applicant's demonstration of project readiness and feasibility, sources and uses of funds, and financial capacity of applicant.
- f. CCR 7039 details the initial allocation notification process for awarding funds after applications have been evaluated.
- g. CCR 7040 establishes an appeals process for applicants including the circumstances under which an appeal may be filed, the timing of the appeal, the review of the appeal by the staff and Authority, and the securing of funds for a successful appellant.
- h. CCR 7041 provides for approval by the Authority of grant awards and notification of approval to grantees.
- i. CCR 7042 specifies when the Authority, at its discretion, can award grants, in the event there are remaining grant funds as of June 30, 2014.
- j. CCR 7043 specifies when the Authority or the Authority staff may have the discretion to consider a change in use of the grant funds.

- k. CCR 7044 details the terms and conditions that will be set forth in a grant agreement.
- 6. Health and Safety Code Section 1179.24(a)(6) requires that the Authority shall award grants subject in part to project readiness and feasibility. Health and Safety Code Section 1179.24(e) specifies that a grant to finance a project cannot exceed the total cost of the project.
 - a. CCR 7045 makes specific the process of releasing grant funds as grant awards for Non-University of California Children's Hospitals.
 - b. CCR 7046 makes specific the process of releasing grant funds as grant awards for University of California Children's Hospitals.
 - c. CCR 7047 makes specific the verification required for submission to the Authority once the grant-funded project is complete for all hospitals.
- 7. Health and Safety Code Section 1179.24(f) provides that if an eligible hospital fails to complete its project under the terms specified in awarding the grant, the Authority may require all or a portion of the grant be returned.

CCR 7048 details the terms by which grant funds must be returned to the Authority due to non-compliance with the Program.
- 8. Health and Safety Code Section 1179.24(f) provides that if an eligible hospital fails to complete its project under the terms specified in awarding the grant, the Authority may require all or a portion of the grant be returned.

CCR 7049 specifies that forfeited grant funds are to be deemed remaining funds for purposes of Section 7042.
- 9. Health and Safety Code Section 1179.25 specifies that the California Bureau of State Audits may conduct periodic audits to ensure awardees of bond proceeds are using funds in compliance with Program.

CCR 7050 interprets and makes specific this provision by requiring grantees to retain all Program and financial data and to provide audited information to the California Bureau of State Audits or Authority upon request.

**Other Matters Prescribed by Statutes Applicable
To the Specific State Agency or to any
Specific Regulation or Class of Regulations**

No other matters prescribed by statute are applicable to the Authority or to any specific regulation or class of regulations pursuant to 11346.5(a)(4) of the Government Code pertaining to the proposed regulations or to the Authority.

Mandate on Local Agencies or School Districts

The Authority has determined that the Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The Executive Director of the Authority has determined that the regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Government Code Section 11346.1(b) or 11346.5(a)(6).

**Initial Determination Regarding any Significant,
Statewide Adverse Economic Impact Directly Affecting Business**

The Authority has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Effect on Small Businesses

The Authority has determined that the adoption of the Regulations will not affect small business. Its purpose is to interpret and implement those portions of the Program that are the Authority's responsibility. The Program is a voluntary financing program available to charter schools to develop charter school facilities.

Cost Impacts

The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effect on Jobs and Business Expansion, Elimination or Creation

The Authority has determined, pursuant to Government Code section 11346.3(b), that the Regulations will not have an effect on jobs and business expansion, elimination or creation.

Cost Impact on Housing

The Regulations will not have any effect on housing costs.

Reasonable Alternatives

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative to the Regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations.

The Authority invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

Agency Contact Person

Written comments, inquiries and any questions regarding the substance of the Regulations shall be submitted or directed to:

Greg Rogers, Deputy Executive Director
California Health Facilities Financing Authority
915 Capitol Mall, Suite 590
Sacramento, CA 95814
(916) 653-2408

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Mary Bates, Treasury Program Manager
State Treasurer's Office
(916) 653-3423

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to the Authority. The written comment period on the Regulations will end at 5:00 p.m. on April 11, 2005. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time for them to be considered by the Authority. In the event that changes are made to the Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

Availability of Initial Statement of Reasons, Rulemaking File and Express Terms of Proposed Regulations

Pursuant to the California Government Code, the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. This address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the Authority's website at <http://www.treasurer.ca.gov/chffa>.

Public Hearing

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the Hearing is being requested.

15-Day Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Authority's website

described above) for at least fifteen (15) calendar days before the Authority adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

Availability of Final Statement of Reasons

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's website described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.